
**COMMISSION MEETING
THURSDAY, MAY 10, 2001
MINUTES**

Chair McLaughlin called the meeting to order at 1:30 p.m., at the Inn at Gig Harbor. **Chair McLaughlin** announced that the ex officio members of the Commission were not present due to the legislative special session. She welcomed TVW and then introduced the following attendees; she noted that Commissioner Parker was expected to arrive later:

MEMBERS PRESENT:

COMMISSIONER LIZ McLAUGHLIN, CHAIR;
COMMISSIONER GEORGE ORR;
COMMISSIONER CURTIS LUDWIG;
COMMISSIONER MARSHALL FORREST;
COMMISSIONER ALAN PARKER (arrived at 2:30 p.m.)

OTHERS PRESENT:

BEN BISHOP, Director;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
AMY PATJENS, Manager, Communications & Legal Dept.;
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant

Chair McLaughlin explained that the agency's Partnership Program is an opportunity for staff to learn more about the Commission and the various units within the agency. She introduced and welcomed Sean Moore, from Information Services, and Kathy Mills, from Financial Reporting.

1. REVIEW OF AGENDA:

Amy Patjens, Manager, Communications & Legal Department, requested that Item #6, the Phase II Review for Freddie's Club of Fife be taken off the agenda. Ms. Patjens also noted that typically, rules are reviewed on Friday, but to accommodate an attorney's schedule, Digideal requested the Electronic Facsimiles of Cards rule be heard today. Staff recommends this be up for discussion today and that the final vote be delayed until June. Regarding Item #9, the Petition for Review for Beagle Club, the petitioner has asked for a continuance to June when the Commission meets in LaConner.

Friday's agenda contains a short legislative update. There is one rule up for final action, the petition from William Krapf dealing with decreasing the threshold amount on the two-part payment plan. She referred to the updated salmon-colored handout, which is a new rule summary that included more information about the potential agency impact should these rules be passed. Staff estimates that it would require .7 of an FTE to cover costs in the licensing and field divisions. Several other rules are up for discussion, a couple relate to new promotional opportunities for charitable groups. A number of card room rules are broken out between housekeeping changes and non-housekeeping changes. The last item will be another petition for a rule change dealing with fees for limited fund-raising events. The petitioner is asking that the fee be decreased. Under the Administrative Procedures Act the Commission must act within 60 days. Lastly, Ms. Patjens announced that the presentation from the Colville Tribe would not occur.

2. NEW LICENSES, CHANGES, AND TRIBAL CERTIFICATIONS:

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to approve the new licenses, changes and tribal certifications listed on pages 1 through 18 of the agenda packet under License Approvals. *Vote taken; the motion carried with four aye votes.*

3. GROUP IV QUALIFICATION REVIEW:

Columbia Basin Domestic Violence Services, Kennewick:

Pat McGreer, Agent, Financial Investigations Unit, reported this organization was formed in 1976. Their mission is to

provide advocacy, supporting services, and shelter to victims of domestic violence. They have been licensed since 1985 and have 15 active members. During 1999, the organization provided program services to 2,751 women, men and children. In addition to victims services, the organization provided emergency shelter, food, clothing, counseling, medical and legal advocacy, transportation, children's counseling and care, crisis services and transition groups. For the fiscal year ending December 31, 1999, the organization met its required combined net return percentage of 10 percent Class I Bingo license by achieving a 12 percent net return. The organization met its program service requirements and did not have excessive reserves. At present there are pending administrative charges against the organization.

Based on the review, staff recommends Columbia Basin Domestic Violence Services located in Kennewick be approved as a charitable organization authorized to conduct gambling activities in the state of Washington. She introduced **Mr. Thomas Morgan**, General Manager, who came forward to answer questions.

Commissioner Ludwig asked Mr. Morgan if he could explain why the Bingo revenue is down. **Mr. Morgan** said he could only speculate, but he thought the Wild Horse Casino (approximately 70 miles away) might be a major draw because they have slot machines. He did not believe the Toppenish Casino, Legends, had affected them as much. Mr. Morgan also noted there are a number of card rooms now and he recognized that there might be a portion of the Bingo clientele that go to the card rooms. Commissioner Ludwig observed that their Bingo is down and their Punch board/Pull-Tabs skyrocketed. Mr. Morgan concurred and said some staff changes had been made at the Pull-Tab tables. The right people (personable, friendly people) at Pull-Tabs tends to increase the Pull-Tab sales.

Commissioner Ludwig made a motion seconded by Commissioner Orr to approve Columbia Basin Domestic Violence Services located in Kennewick as a charitable organization and that they be authorized to conduct gambling activities in the state of Washington. Vote taken; motion passed with four aye votes.

4. GROUP V QUALIFICATION REVIEWS:

Northshore Youth Soccer Association:

Monty Harmon, Program Manager, Financial Investigations Unit, reported this organization was formed in 1976. Their mission is to provide recreational opportunities to youth in the Northshore School District as well as King and Snohomish Counties. The organization has been licensed since 1997 and has 495 active members, a governing board of 18, including seven officers. During the Year 2000 the organization provided active recreational opportunities to approximately 6,200 players on 495 teams. In addition, the organization offers specialized training and organizes soccer games, practices, clinics and meetings for players, coaches and referees. For the year ending March 31, 2000, the organization did not meet its required net return percentage of 7 percent for a Class J Bingo under the moratorium. They did achieve a 3.1 percent net return. The year-to-date net return as of December 31, 2000 was 2.35 percent. The organization met its program services expenditure requirements and did not have excessive reserves. However, less than 60 percent of the organization's gambling proceeds were spent towards providing gambling services, which resulted in a deferred suspension until September 30, 2001. There are no pending administrative charges against the organization.

Based on the deferred suspension pending until September 30, 2001, staff recommends that Northshore Youth Soccer be temporarily approved as a nonprofit organization and be authorized to conduct gambling activities in the state of Washington. Staff will review the organization's compliance at the license year-end on September 30, 2001. **Dave Shipway**, President, was present for questions.

Mr. Ludwig said he was curious about the drastic reduction in their net Bingo income. **Mr. Shipway** advised that he was one of the five members of the organization's board and that he had some statements to make regarding the deferred suspension. He advised his organization hasn't been idle since the Commission granted that deferral last August. He believed that staff's review was quite fair and that his financial reporting methods were not sophisticated enough to identify and allow staff to easily track where the Bingo money was spent. They were putting all of their revenue streams from fees, property development, and fund-raising into a common pot and then distributed them through their budgeting process. They are planning to segregate their funds to clearly identify that they are spending their Bingo revenues on program services. **Chair McLaughlin** observed that they spent over \$100,000 on building leases and asked if the organization uses the building for anything other than Bingo. Mr. Shipway responded affirmatively saying they have had two tenants in the building, and part of it is used for storage.

Commissioner Ludwig observed the drastic drop from 1999 to 2000 in the Bingo net return. **Mr. Shipway** explained

that the previous Bingo manager submitted a business plan that essentially didn't work -- the net revenues and the games and the promotional schemes they tried were not well received by the customers and caused a significant decrease. It cost more than projected and generated less than projected. Mr. Shipway enumerated on the recent changes: 1) First of all, they agreed to operate at a Level J and not to exceed that revenue level. Level J allows \$3 million in gross receipts. They put a business plan in place that will generate 2.5 to 2.6 million in Bingo; 2) On the expense side, they reduced their labor expenses by 45 percent. They let three managers go and reduced staff. They also cut employee benefits. 3) On the gaming side, they executed a session-by-session, game-by-game review and tried to remove the games that were not profitable and replace them with games that generated more net return. He summarized they have tried to cut expenses, lower prize payouts and increase per head spending.

Chair McLaughlin asked who the Bingo manager is now. **Mr. Shipway** said they now have three women who are the management team: Peggy Crum, Julie Bennett and Terri Basher. **Commissioner Ludwig** said he thought Mr. Shipway was the Bingo manager. **Mr. Shipway** said he was appointed to be one of the members of the nonprofit Bingo Committee, which oversees operations.

Commissioner Forrest didn't understand the temporary authorization—he believed an organization is either authorized or not. He asked if the Commission had decided in a previous situation that if the organization failed to meet the requirements (by now, it would be the new financial targets in the revised rules), it would not really be appropriate to combine the two tests. **Director Bishop** affirmed that in this case, staff has asked for temporary approval, but he believed it should be a conditional approval because one of the issues was that the 60 percent was not spent, which is a qualification failure. Commissioner Forrest noted the idea is that they will have a chance to cure the 60 percent issue and the pertinent standards of net return to the charitable operation would be judged by the other rule. **Director Bishop** said that was correct; it was a different issue. **Chair McLaughlin** asked if the Board had made a decision on the bottom line whether Bingo was a good thing for their organization or whether they should find another method of raising money for the organization. Mr. Shipway affirmed it is not as good as they hoped it would be, however, they have not yet made a bottom line decision to get out of the business. The members of the Bingo Committee believe that with the changes that have been made and changes they continue to make in the future, they will be in compliance by the end of 2001.

Commissioner Orr made a motion seconded by **Commissioner Forrest** to conditionally approve Northshore Youth Soccer as a nonprofit organization and that they be authorized to conduct gambling activities in the state of Washington. Vote taken; motion passed with four aye votes.

Music Works Northwest:

Monty Harmon, Program Manager, reported this organization was formed in 1965. The mission of this organization is to provide high quality music education and performance opportunities to people of all ages and backgrounds. They've been licensed since 1974. The organization has 15 active members who serve as the Board and there are four officers on that Board. During the year 2000, the organization provided program services to 1,200 students. In addition, outreach activities served 600 people and they had summer camps that had 450 attendees. The organization also hosted several workshops, festivals, and performances throughout the year. For the fiscal year ending September 30, 2000, the organization met its required combined net return percentage of 16 percent by achieving 20.2 percent. Their year-to-date net return as of December 31, 2000, was 14 percent. The organization met its program service requirements and did have excessive reserves. At present there are no pending administrative charges against the organization.

Based on the review, staff recommends that Music Works Northwest located in Bellevue be approved as an educational organization and be authorized to conduct gambling activities in the state of Washington. **Greg Murray**, Executive Director, was available to answer questions. **Chair McLaughlin** said she noticed the Bingo net income has gone down. **Mr. Murray** affirmed it had gone down substantially and this is a challenge everyone is facing. Their organization lost over \$400,000 in net Bingo revenue over the last year and a half, however, they are experiencing dramatic program growth. They built a new program facility in the Bellevue area and they have a campus in the Central District of Seattle. They are surrounded by several major tribal casinos as well as several commercial casinos and believe those operations are having a direct impact on their organization. He urged the Commission to consider and pass on to the Legislature how difficult it is for their facility to compete when they can only offer three days a week of operation. They don't have the same playing field as the commercial operations. The gambling statute gave the charitable organizations an opportunity to raise funds and the organizations that have these licenses do tremendous work around the state to serve

the citizens of the state of Washington. Mr. Murray asked the Commission to do anything possible to enable charitable organizations to recover at least some of the revenues they've lost over the last two-years. **Commissioner Forrest** said the Commission has been concerned and receptive to ideas for plausible ways of expanding the nonprofits' revenue. Mr. Murray responded that some of the suggestions are perceived as an expansion of gambling in the state. He noted the market has expanded slightly, and the market share that the nonprofits have to share has diminished tremendously. They have pointed this out to various members of the Legislature. They've indicated they understand, but they don't want to see an expansion of gambling. Commissioner Forrest asked if an initiative would work. Mr. Murray didn't think the nonprofits have the resources to make an initiative pass.

Commissioner Ludwig said he heard Mr. Murray mention three days a week as not being enough time to justify the advertising expense. He asked if Mr. Murray was in favor of being in operation more than three days. **Mr. Murray** affirmed and said that he would also entertain the idea of combining it with allowing halls to have more than one game. Commissioner Ludwig said it had been his understanding that some of the charitable nonprofits don't support this concept. Mr. Murray affirmed, and noted that he is trying to take a long-term view at what is going to make them sustainable as an industry, and as a revenue source for the charities around the state.

Commissioner Ludwig made a motion seconded by **Commissioner Orr** to approve Music Works Northwest in Bellevue as an educational organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; motion passed with four aye votes.*

Sno-King Amateur Hockey Association:

Michele Chewerda, Financial Investigations Unit, reported that the organization was formed in 1965. The mission is to promote, develop, and supervise youth who participate in hockey programs. Licensed since 1974, the organization has 584 active members. The governing board is comprised of nine board members including three officers. During the 1999-2000 season, the organization placed 584 players on various teams based on age groups. In addition, the organization completed an agreement to allow a second ice facility, completed building upgrades to the King's Gate Arena and created additional skills programs for recreational players. For the fiscal year ending June 30, 2000, the organization met its required combined net return percentage of 10 percent under the net return moratorium for its Class L Bingo license by achieving a 10.2 percent net return. The organization's year-to-date net return as of December 31, 2000 was 8.75 percent. The organization met its program service requirements. The organization had excessive reserves of \$10,555 which was due to a large one-time income tax refund. The entire reserves have to date been used to pay down their debt. At present there are no pending administrative charges against the organization.

Based on the review, staff recommends that Sno-King Amateur Hockey Association located in Kirkland, be approved as an athletic organization and be authorized to conduct gambling activities in the state of Washington. **Mathew Blondin**, Executive Director, was available to answer questions.

Mr. Blondin reported that he was new to the association and replaced Marcel Como in November. The organization has done well in the Bingo arena and has been successful in supporting their mission, which is about kids, but also about parents. They also teach parents how to behave and that winning is not everything. The organization has run other activities to help fund-raising. They have teamed with the Seattle Thunderbirds and run raffles at the Thunderbird games. They have an annual auction, which has been successful over the last few years. They have also entered into an agreement to partner on a rink in Renton. They hope to generate additional income. The idea is to control costs in the long term. Everyone is feeling the impact of energy cost increases—renting an ice rink is a dramatic drain on water and power, and so increases continue. To aid with the cost of putting on their program they are partnering with Seattle Hockey from an administrative side. They have combined the two organizations to form one elite team to represent the state of Washington. This cuts down on administration and will in the end provide a better venue for kids to play on a national level. He introduced his Bingo manager, Clyde Bach, who has worked with many of the other Bingo managers.

Commissioner Ludwig made a motion seconded by **Commissioner Forrest** to approve Sno-King Amateur Hockey Association as an athletic organization and that they be authorized to conduct gambling activities in the state of Washington. *Vote taken; motion passed with four aye votes.*

5. HOUSE BANKED CARD ROOM:

Club Fiji, Everett: Courtnay Inc. (Noriega, Inc):

Chair McLaughlin stated that she would abstain from voting and leave the room. She asked Vice Chair Orr to act as Chair in her absence.

Derry Fries, Assistant Director, reported this organization applied for a license to operate up to five tables of house-banked card games in Everett, Washington. He recalled that this application was originally brought before the Commission on April 12, 2000. At that time the Commission voted to hold the application over because the son of the applicant and the husband of the general manager, Mr. Robert Noriega, had a pending criminal action. The collective thought of the Commissioners was that Mr. Noriega had a potential influence over the applicant even after the staff obtained a pre-licensing agreement that excluded Mr. Noriega from the entire business premises and from having anything to do with the corporate activities of the Club Fiji Casino. As specified in the supplemental report, Mr. Noriega went to trial on April 30, 2000. A second trial ended in a mistrial. A new trial was set for July 13th; however, the Snohomish County Prosecutor's Office advised the agency that they may pursue another trial or they may allow Mr. Noriega to plead to a lesser offense. On May 3, 2000, Ms. Franklin, the corporate president, hired a new manager and indicated that Mrs. Noriega is no longer working in that position. Mr. Tien P. Nguyen is the new general manager. On May 9th, the Snohomish County Prosecutor's Office sent the Gambling Commission agency a photocopy of court documents disclosing that Mr. Noriega pled to a lesser offense of disorderly conduct (which is a misdemeanor) for his actions on June 17, 2000. The plea was accepted.

Based upon that information and the results of staff's licensing investigation, the pre-operational review and evaluation and receipt of the pre-license agreement by the applicant, staff recommends approval of the license as requested. **Mr. Fries** introduced General Manager, **Mr. Tien Nguyen**, and **Ms. Barbara Franklin**.

Commissioner Ludwig asked if Mr. Nguyen would remain as general manager now that Robert Noriega's case has been disposed of and **Mr. Nguyen** affirmed that he would remain as long as Ms. Franklin kept him. **Commissioner Ludwig** explained the reason he asked that question was that Ms. Franklin's letter states, "that until a decision is reached in Mr. Noriega's case, I am removing Cynthia Noriega from the position of general manager." Commissioner Ludwig pointed out that a decision has been reached now, and he asked if Mr. Nguyen had discussed this with Ms. Franklin yet. Mr. Nguyen was unable to respond so **Commissioner Ludwig** then referred the question to **Ms. Franklin** who said she had hired Mr. Nguyen permanently. She said if a contract is needed to assure the Commission of his permanency, they could have that as well.

Acting Chair Orr asked if there were further questions and there were none. He asked if anyone wished to make a motion.

Commissioner Ludwig made a motion, seconded by **Commissioner Forrest**, to approve the Petition for Courtnay, Inc. d/b/a Club Fiji Casino in Everett to operate a house-banked card room with \$25 initial limits.

Commissioner Forrest asked Mr. Fries to explain Ms. Franklin's letter wherein she will reassure the Commission they will abide by the previous agreement. He asked if that would, in effect, exclude Mr. Noriega from participating in the operation of the card room. **Mr. Fries** affirmed. Commissioner Forrest asked if that would also be incorporated or reflected in the actual license that is now being issued. Mr. Fries responded that it would not be on the license itself, but affirmed the agency has a signed pre-license agreement in the file. **Acting Chair Orr** indicated that this organization would be under some significant scrutiny based on their past performance. Mr. Fries agreed. **Acting Chair Orr** called for further questions or discussion and there was none. *Vote taken; Motion passed with three ayes.* (Commissioner McLaughlin was not present)

Vice Chair Orr called for a five-minute recess at 2:20 p.m. **Chair McLaughlin** called the meeting back to order at 2:30 p.m. **Commissioner Parker** arrived.

6. PHASE II REVIEW:

Freddie's Club, Fife:

This agenda item was removed from the agenda.

7. Electronic Facsimiles of Cards:

WSGC Meeting, Gig Harbor

Adopted Minutes

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WAC 230-40-010; WAC 230-40-070:

Amy Patjens, Manager, Communications and Legal Department, explained this system is called Digideal. Staff is asking that this rule be held over for another month for additional discussion. Ms. Patjens noted that previous rule summaries indicated that the agency impact would be minimal. The revised rule summary identifies .7 of an FTE is necessary and about \$9,000 in equipment costs. This allows time for the initial testing and installation as well as periodic reviews by staff. Ms. Patjens noted that although the rule is called Electronic Facsimiles of Cards, "Digideal" is the system that has been discussed. She wanted to make it very clear that passing these rules would allow any qualified manufacturer to make a system using electronic facsimiles of cards -- not just the Digideal manufacturer. Staff does not know if there are other companies that are using this same technology, however, the rules would apply to any manufacturer. The first rule currently states that social card games must be played with one or more standard decks of playing cards and if this system is approved, this rule would need to be amended to add electronic card facsimiles as another method by which social card games could be played

Ms. Patjens explained that the second rule, which is where most of the changes are, would allow the director to approve electronic card facsimiles as long as certain conditions are met. This includes the testing by a game-testing laboratory to make sure that the game would produce accurate facsimiles of cards, randomly shuffle cards, and have security protocols. Staff recommends further discussion. She reminded the Commissioners that it is a policy call; whether to allow the electronic card facsimiles, currently, we only allow the standard decks of paper cards.

Commissioner Forrest asked why this was being held over. **Ms. Patjens** said staff thought it would be nice to have this up for final action when the ex officio members of the Commission could be present. Staff moved the agenda item over to Thursday's schedule to accommodate the schedule of their attorney. **Director Bishop** added that he thought it would be important for the ex officio members to see the system because this is a change in philosophy—going from hard cards to electronics. **Commissioner Ludwig** thought it would be helpful for all concerned to have a chance to see and understand the system. **Commissioner Orr** said he was glad they were asking the ex officio members to be another check and balance to this process because last month someone specifically brought up the issue about checks and balances. While staff knows about and has addressed the checks and balances, he believed it is a very good idea for the Commission to do this publicly to assure all of the people involved in this industry that those checks and balances are in place.

Chair McLaughlin recalled that last month Commissioner Forrest had commented in this regard and brought attention to the fact that the average person wouldn't be able to know that all the cards were in the decks. **Commissioner Forrest** affirmed that it makes sense and is good judgment to provide the legislators with an opportunity to see how the machine operates and that it's better that they see it now in the event they have concerns. However, he did not anticipate any problem. Chair McLaughlin asked if there had been any discussion about making this very limited in the beginning to see how it works. She referred to the test program of the enhanced card room program -- they could limit the number of tables in a card room, or the number of card rooms in the program at first. **Director Bishop** said the Commission has the authority under technical standards and has the ability to test the system. He said that may be a very good thing to do, however, he did not want to go into a full-blown pilot program.

Commissioner Orr made a motion seconded by **Commissioner Forrest** to not take final action at this meeting on the electronic cards facsimiles and to hold it over to the June meeting. *Vote taken; motion passed with five ayes.*

PETITIONS:

Chair McLaughlin announced that the two petitions for review on the agenda would be heard before Judge Marshall Forrest acting as the Presiding Officer. Before proceeding to the hearing she asked the Commissioners to make a decision on how to handle the Beagle Club Petition for Review due to the fact that the owner has in written format requested that the hearing be held over due to illness. **Commissioner Forrest** asked if the sanction on the Beagle Club petition was in place or on hold and was informed by **Director Bishop** it was on hold. Commissioner Forrest said he was inclined not to be sympathetic with the petitioners. The two principals are sick, the accountant who was blamed for this is unavailable and they apparently don't plan to get an attorney. He said as he recalled the merits, there seemed very little chance that an argument could be made that would persuade him. Commissioner Forrest said it is his inclination to say that they had their chance; they didn't show up and it's too bad. He believed the sanctions should go into effect and if the principals wanted to come in and move for reconsideration that would be fine. He indicated that these cases drag on long enough as it is. This was supposed to be a summary penalty—that was the reason it was structured that way and

he believed the system was being abused.

Chair McLaughlin asked Assistant Attorney General Ackerman if the Commission should hear the matter if the principals aren't here and don't have representation -- could the Commission hear the petition from the Commission's point of view and could they make a decision? **Mr. Ackerman** responded that it is at the Chair's discretion -- essentially, by the parties not appearing, they're in default and the Commission may find them in default and uphold the initial order if the Commission chooses to do so. Chair McLaughlin asked if they were considered in default even with their letter requesting to be heard in June. **Mr. Ackerman** explained that when the parties are not present, they are in default and the Commission has the choice to find them in default and uphold the initial order if they choose to do so. He believed they were still in default even with the letter. However, the Commission may also choose to address the matter on the merits, taking their letter as their written submittal of position and hearing from staff. If the Commission choose to hear it on the merits, it will be based on what the petitioners have submitted in writing and the Commissioners may feel that is enough. Chair McLaughlin asked if one Commissioner objected, would they be required to hear it. Mr. Ackerman affirmed it takes a quorum to be present and the Commission can determine its procedure by a majority of those present, so three commissioners could set the procedure and determine whether or not they want to rule on it as a default case or whether or not they want to rule on the merits of what they will have before them when the hearing ends.

Chair McLaughlin called for a motion. **Commissioner Orr** moved that the petitioners defaulted by not appearing even though they sent a letter. Motion died for lack of a second. **Mr. Ackerman** advised that if the motion to default has died, the Commission should proceed to the hearing.

Commissioner Forrest suggested they take care of other business until 3:00 p.m., which was when the hearing was scheduled.

8. Other Business/General Discussion/Comments from the Public: (Taken out of order)

Chair McLaughlin called for comments from the Commission or the public. There were no comments. **Chair McLaughlin** welcomed Commissioner Alan Parker to the meeting and called for a 15-minute recess at 3:00 p.m. At 3:15 p.m., Chair McLaughlin called the open public meeting into session and announced that after hearing the two petitions, the Commissioners would recess to consider each case then reconvene to announce their decision in each matter.

9. Petition for Review - Seizure:

Daphne Schuback, Picasso Holding, LLC, Spokane

Neil Gorrell, Assistant Attorney General and Claimant, **Frank Pasco** provided their testimony.

Upon completion, **Commissioner Forrest** reported the Commissioners had reviewed the record and considered the argument that was made, but felt this was a straightforward issue. The Commission affirmed the finding of the Administrative Law Judge. He noted that Mr. Pasco raised the question as to how one handles the transition of getting material in and getting approval; and while that was outside the record the Commissioners asked staff to review that issue and report back to the Commission. Commissioner Forrest noted an Order would be prepared and mailed to Mr. Pasco.

10. Petition for Review – Violation of Agreed Order:

Begal Club, Tumwater:

Neil Gorrell, Assistant Attorney General

Commissioner Forrest noted the Commission had read the record and listened to an explanation of State's Counsel and has concluded again that the Administrative Law Judge findings should be affirmed and an Order so stating will be prepared and mailed to the respondent parties.

11. Executive Session to Discuss Pending Investigations and Litigation:

Chair McLaughlin called for an executive session at 4:15 p.m. and announced that no further business would be conducted.

12. ADJOURNMENT:

At 4:30 p.m. **Chair McLaughlin** reconvened the meeting and declared the meeting adjourned until 9.30 a.m., May 11, 2001.

**COMMISSION MEETING
FRIDAY, MAY 11, 2001
MINUTES**

Chair McLaughlin called the meeting to order at 9:35 a.m., at the Inn at Gig Harbor. The following attendees were in attendance:

MEMBERS PRESENT:

**COMMISSIONER LIZ McLAUGHLIN, CHAIR;
COMMISSIONER GEORGE ORR;
COMMISSIONER CURTIS LUDWIG;
COMMISSIONER MARSHALL FORREST;
COMMISSIONER ALAN PARKER;**

OTHERS PRESENT:

**BEN BISHOP, Director;
ED FLEISHER, Deputy Director, Policy & Government Affairs;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing Operations;
AMY PATJENS, Manager, Communications & Legal Dept.;
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant**

1. MINUTES – April 12 & 13, 2001, Vancouver Meeting

The minutes of the April 12 and 13, 2001, meeting were approved as presented.

2. STAFF REPORT – LEGISLATIVE UPDATE:

Deputy Director Ed Fleisher reported that Senate Bill 5905, which passed the Legislature and was signed by the Governor on Tuesday, dealt with the sovereign immunity of the state regarding litigation with the tribes over gaming compacts. In this bill, the state agrees to a limited waiver of its Eleventh Amendment Sovereignty Immunity Rights which would allow only those tribes that have compacts with the state to bring actions in federal court when they feel that the state is not negotiating in good faith on an item covered by the Compact or by IGRA. Deputy Director Fleisher didn't expect to see a lot of litigation out of this legislation and reminded the Commissioners that when there is litigation, the threshold question for the court will be whether the state of Washington is negotiating in good faith or not.

Commissioner Forrest noted the Ninth Circuit puts great stress on the fact that there was no remedy for the tribes which cast some doubt on the whole system as envisioned by the federal legislation. He wanted to know what, if any, effect on that decision will this action by the Legislature have? **Mr. Fleisher** believed Commissioner Forrest was correct, and he predicted that not only the Ninth Circuit but also some of the lower district court decisions as well as the decisions of the United States Attorney for eastern and western Washington have taken that fact into consideration. He believed it is one of the reasons that the action at the U.S. Attorney's level has been as slow as it's been -- because there's been a feeling that because of the Seminole case and the states asserting their Eleventh Amendment rights, that there is a right out there without a real remedy, and they've been buying more time to see if things could be settled. It's been specifically mentioned in some of the lower court federal cases.

Chair McLaughlin indicated the tribes would be happy knowing that the Gambling Commission, the Legislature and the Governor supported this legislation. **Mr. Fleisher** affirmed it would have an effect on negotiations. **Commissioner Forrest** noted that if the threshold question is resolved adversely to the state, then the idea is that the court would resolve the issue. **Mr. Fleisher** reminded the Commissioners how IGRA works, as it was originally passed, it's almost the same as the secretarial federal mediation process the agency is going through with the Colvilles right now. Under IGRA, if after a period of time (180 days) no agreement has been reached and the tribe feels the state has not been negotiating in good faith, they can make that claim in federal court. If the federal judge agrees that the state has not been doing that, he orders the sides to try and reach an agreement. Failing that agreement, the court would appoint a federal mediator. The mediator would meet with the state and the tribe, and, if after a period of time, they couldn't reach agreement, then it would go to the last best offer arbitration. Ultimately each side puts its last best offer on the table and the mediator chooses one or the other. **Mr. Fleisher** said the bill basically opens the door for a remedy for those tribes that have compacts with the state of Washington if they feel the state is not negotiating in good faith the state agrees, through this legislation, to have the matter settled in federal court.

Mr. Fleisher said no other gambling legislation passed this session. The bill on emergency rule making did pass, so the Commission will continue to be able to adopt emergency rules if necessary. Another bill that was signed by the Governor that could affect this Commission is the bill clarifying what can be done in executive session. He didn't think that would mean any changes for the Commission. **Mr. Fleisher** noted that the House and Senate committees are planning on having hearings over the interim on the big policy questions relating to the future of gambling in Washington. An agenda hasn't been set yet, however, he anticipated there would be several meetings over the summer. **Commissioner Forrest** asked what the Commission's role would be -- does the Commission wait to be asked or does it make any affirmative presentations. **Mr. Fleisher** responded that he and Ms. Patjens would be making substantive presentations to them on what the Commission does and the history of the law. As far as the Commissioners are concerned, he strongly encouraged members of this Commission who are willing and want to come forward and give their views and thoughts on gambling to participate and testify. He affirmed that Senator Prentice and the house co-chairs would be interested in hearing any Commissioner's individual opinions, advice and policy guidance on some of the big issues.

Commissioner Forrest thought it would be desirable for the Commission to consult guidance from Mr. Bishop who has years of experience with gambling in Washington. If they're going to have a interim committee to review the whole subject, Commissioner Forrest believed they should be entitled to do more than just accept some convictions about what needs to be fixed or to shape things to come. He hoped that sometime between now and when the committee meets, the Commission could see if they have a positive position they want to take rather than simply respond to the committee's questions. **Mr. Fleisher** believed the committee would welcome that kind of advice. **Chair McLaughlin** noted they are not just listening to the Commission, they'll be listening to the Horse Racing Commission and the Lottery Commission. She believed the way the Commission looks at gambling in Washington is a bit diversified. Commissioner Forrest said he would like to tell the Legislature that when the nonprofits talk to legislators about possibilities for charities, that their perception that some of these activities would "expand gambling" is incorrect. Commissioner Forrest believed the Commission should go to this committee and ask them to seriously look at this issue. Chair McLaughlin affirmed those statements have been made in more ways than one, individually and in meetings. The trouble is that there are just a few members of the Legislature that attend the meetings. **Mr. Fleisher** noted that last year there was very good turnout at the joint House/Senate meetings. Chair McLaughlin said she thought Senator Prentice did a remarkably good job and she thought the Commission should thank her -- she asked if staff would write a letter thanking her for her attention to this issue. **Mr. Fleisher** hoped the ex officio members would be joining the Commission meetings again in June, and he thought that would be a good time to discuss what the best way is to get the kind of input that Commissioner Forrest was talking about.

3. **Petition for Rule Change by William Krapf:**

WAC 230-04-190:

Amy Patjens, Manager, Communications and Legal Department, explained this rule is up for final action today. **Mr. Krapf** is the petitioner and owner of the Buena Tavern located in Yakima County. In March, the Commission voted to file the petition and start the rulemaking process. Currently, licensees who have a license fee of \$1,200 or more can pay half of their license fee at the beginning of the year and then the other half after six months. The agency only has about 700 licensees that take advantage of this opportunity. **Mr. Krapf** is asking that that threshold amount be decreased to \$800 which it was several years ago. He felt this change would assist small business owners. About 480 additional

licensees would be eligible to take advantage of this two-part payment plan. Staff supports this change even though there would be some impacts. Ms. Patjens noted the potential agency impact in the rule summary has been revised and that the impact would be offset by the \$26 fee. Staff recommends final action and also recommends that this rule take effect 31 days after filing so it can be effective as soon as possible for licensees.

Commissioner Ludwig made a motion seconded by Commissioner Orr to accept staff recommendation to adopt this rule change.

Chair McLaughlin called for further discussion, but there was none. She called for public testimony and there was none. *Vote taken; motion passed unanimously.* **Ms. Patjens** asked Commissioner Ludwig if his motion to adopt staff's recommendation included having it be effective in 31 days. **Commissioner Ludwig** affirmed.

4. Promotional Opportunities for Charitable and Nonprofit Organizations:

WAC 230-20-125; WAC 230-30-106:

Cally Cass-Healy addressed Item 4(a) – WAC 230-20-125 – Discounts of promotion gifts – authorized limits.

Language was amended to increase the number of promotional activities allowed from 12 to 18; furthermore, language was added so that Bingo operators can now offer an unlimited number of discount coupons for their games. She reminded the Commissioners that these two rules up for discussion today are a result of the net return task force discussions that continued into nonprofit charitable study discussions. Ms. Cass-Healy pointed out these rules are up for final action next month.

Chair McLaughlin opened the item for public testimony. There was none and the public testimony was closed.

Commissioner Ludwig inquired about the current 18 annual occasions for the promotional activities, and asked if they can select the time they want to do them. **Ms. Cass-Healy** said it is currently 12 and they are requesting 18, and yes, they would be able to request when they wanted to do it. **Commissioner Ludwig** wondered if they could run up three or four in a row. Ms. Cass-Healy affirmed.

Ms. Cass-Healy explained Item 4(b) – WAC 230-30-106 – Punchboard and pull-tab flare restrictions, standards and substitute flares.

Currently only commercial businesses can offer happy hour Pull-Tab games and this rule change would allow all Pull-Tab operators including charitable and nonprofit organizations the opportunity to offer these games. However, they are restricting it to one game at a time for nonprofits because staff has additional concerns over the use of their proceeds. Ms. Cass-Healy noted that every Pull-Tab game is required to have a sheet of paper or cardboard which discloses the prizes that the winner may win, and as those prizes are won, the Pull-Tab operator is required to mark them off so that the public knows which ones are available at any given time.

Chair McLaughlin opened this item for public testimony. There was none and the public testimony was closed. These rules will appear on the June agenda.

5. Card Rooms:

WAC 230-08-027, 230-08-090, 230-12-072, 230-12-073, 230-40-050, 230-40-055, 230-40-610, 230-40-625, 230-40-630, 230-40-803, 230-40-805, 230-40-815, 230-40-820, 230-40-825, 230-40-830, 230-40-833, 230-40-840, 230-40-865, 230-40-870, 230-40-875, 230-40-885, 230-40-895, 230-40-897, 230-40-120, 230-40-500 and 230-40-505, and 230-40-455:

Chair McLaughlin suggested Ms. Cass-Healy go through all 27 rules and then she would open for public testimony.

Cally Cass-Healy, explained that Items 5(a) through 5(e) are simply housekeeping and pertain to WAC 230-08-027, 230-08-090, 230-12-072, 230-12-073, and 230-40-050. Due to the fact that some were reclassified and moved from Chapter 8 to Chapter 40, headers were added and some references were changed. Items 5(f) and 5(g) are housekeeping, because they were moved to a different subsection. Item 5(h) addresses count procedures and simply separates the requirements for count procedures between Class F that are Poker rooms and house-banked card rooms. There were no substantive changes in content for this rule. Item 5(i), references to the rules that have been updated.

Ms. Cass-Healy explained that beginning with Item 5(j), the changes become more substantive, and she addressed them one by one.

Item 5(j) – WAC 230-40-055 Card tournaments for fees and prizes. Right now operators may offer a free entry into a tournament based upon card play which is under §§ 7 as long as they do not exceed the \$50 entry fee. Currently, the operators may charge a player a maximum of \$50 and language was added to this rule so that those operators who utilize the rake method to assess fees may qualify tournament contestants based on the time played. Also, tournament rules must currently be posted in an operator's premises and listed in all advertisements. Staff felt this was burdensome and since they're already posted in the card room, they have removed the requirement to list all rules in the advertisements. **Commissioner Orr** verified that they are required to be posted in the card rooms. **Ms. Cass-Healy** affirmed.

5(k) – WAC 230-40-610 – Player-supported jackpots. There are several changes in this rule. Under §§ 3, language was amended to clarify that the interest earned on PSJ funds is considered player money and licensees have no vested interest. Additionally, language was added to clarify that licensees shall not deduct any funds in excess of the 10 percent administrative fee to cover banking fees. §§ 6 requires owners and on-duty card room employees to show their cards at the end of each game. This was amended so owners and card room employees will no longer be required to show their hands at the conclusion of any game where PSJ winnings are based upon a predetermined hand.

Ms. Cass-Healy noted that under §§ 9, a petition was submitted quite a while ago by a Mr. Lee Taylor requesting that discontinued PSJ's be given back to the players in a tournament offering the same type of game. Staff has been working with Mr. Taylor for several months and has made changes to the rule based upon his requests. As a result, licensees who discontinue a PSJ must now distribute PSJ funds back to the players within 60 days in a tournament offering the same type of game under which the PSJ was established, or an approved promotion. It also states that PSJ funds could be forwarded to the Washington State Council on Problem Gambling if a card room closes and it's posted for the licensees to see.

Commissioner Orr wanted to know what the penalties were for not paying a PSJ. **Ms. Cass-Healy** said they were quite severe depending on the circumstances. If, upon investigation it was found to be a problem, there would be severe repercussions against the card room. Commissioner Orr asked whether the Commission could assure the citizens of the state of Washington that there isn't any wiggle room and there isn't any tolerance for this kind of misbehavior. Ms. Cass-Healy affirmed that staff watches PSJs very closely, they require licensed custodians to have access to the funds, specific pay-out procedures, and many of the procedures of the PSJ are based solely upon those criteria to protect the players. Commissioner Orr asked if a licensee could lose their license for a period of time. Ms. Cass-Healy affirmed there was that potential.

Chair McLaughlin asked if a licensee elects to discontinue a PSJ, what happens. **Ms. Cass-Healy** said anybody who's contributed to the pot would be eligible to participate in a tournament. **Mr. John Brinsmead**, Program Manager, explained that PSJs are viewed as being player-funded, and in some of the other games, the whole jackpot is viewed as player money. Procedures are in place to look at that money and make sure it's given away to the players at some future time. Mr. Brinsmead said there is no way to determine exactly who played in the game. Chair McLaughlin responded that the rule says it "shall be." **Mr. Fleisher** explained that what is envisioned, if a tournament is set up, any player can play and they do not have to prove they were one of the players. Mr. Brinsmead affirmed that in the past, there has been an outcry from the people who contributed to the player fund – they wanted an opportunity to win the prize -- that's the idea behind this rule. It will be kept in the same type of game that was being played originally. **Director Bishop** added that in fact Mr. Taylor wanted it confined to those players that had been involved, however, there's just no way of doing that.

Commissioner Ludwig asked Ms. Cass-Healy what happened to the petition Mr. Taylor submitted last year. **Ms. Cass-Healy** explained that Mr. Taylor withdrew his petition based on staff's discussions. Compromises which are now in the rule were achieved. Commissioner Ludwig said that as he reads the rule, the substance is that the operator or licensee goes through a special tournament of the same type that the PSJ funds were collected, which would avoid giving the funds to Problem Gambling. **Ms. Cass-Healy** conceded that that was the intent of the petition, however, the rule leaves that as an option, which was one of the compromises. Commissioner Ludwig noted we've taken the Council on Problem Gambling out of the picture for unawarded PSJ prize funds. Ms. Cass-Healy affirmed and explained the theory was that it's the player's money and they deserve a chance to get it back first. **Chair McLaughlin** said she still had problem with how all the players are informed about the tournament being held. Ms. Cass-Healy said it would usually be advertised and posted and they'd give people the opportunity to sign up for the tournament. However, if the business is closed,

that's not very likely, which is why the option exists for Problem Gambling to receive the funds.

Item 5(l) – WAC 230-40-803 Phase II wager limits, restrictions and procedures. **Ms. Cass-Healy** reported there were several versions of this rule. Initially, the rule was changed to define six months of operation for the purpose of approving licensees for Phase II limits. The reasoning was that if someone opened up house banking on a specific date, they were not eligible to come before the Commission for approval until after six months had passed. Sometimes that was a matter of two or three days and that caused the licensee to be held off for an additional month -- costing them money and convenience. After much discussion last month, alternative versions were provided. Alternative #1 has language added that an operator may receive approval for Phase II limits prior to operating six months; however, they cannot begin operating at Phase II levels until they have operated for a minimum of six months. Alternative #2 provides that the director would be given the authority to approve Phase II operating levels for card rooms. Staff would provide the Commission a summary report of each Phase II approved. The alternative was based on discussions last month. Alternative #3 is new and the new language was provided to clarify how material violations or charges would affect a licensee's eligibility for Phase II approval. This was somewhat confusing – Ms. Cass-Healy gave an example -- if a licensee had an administrative action taken against them after operating for five months, the business would be ineligible for Phase II for at least six more months -- this becomes 11 months after opening, which is a significant penalty. Therefore, language was amended so that card rooms operating at Phase I levels would have the ability to be approved to operate at Phase II levels as long as any administrative actions in the past six months for substantial violations or violations deemed substantial due to repetition. Language was also changed to clarify the circumstances under which a licensee could be held back from approval. **Ms. Cass-Healy** reported that staff recommends these language clarifications in any of the rule versions the Commission may adopt. **Chair McLaughlin** asked which alternative would be the easiest to administer. Ms. Cass-Healy responded that staff's preference is Alternative #2 which is a policy issue for the Commissioners to determine, otherwise, staff recommends Alternative #4.

Commissioner Forrest said he didn't understand where it says the director may authorize a licensee to increase wagering limits up to five tables pending Commission approval. **Chair McLaughlin** said that rule had been in place for some time. Commissioner Forrest affirmed he was aware of that, however, he felt it was odd -- if the licensee is entitled to go, they've got 15 tables, let them go. If they aren't entitled to go forward, they shouldn't go for five. He didn't understand the logic. **Ms. Cass-Healy** advised that it is a timing issue. Licensees who have met all of the requirements are required to wait up to an additional month for formal Commission approval. At the point these rules passed initially, the Commission gave the director authority to allow a temporary or a partial Phase II until the licensee could go for a formal approval. Commissioner Forrest responded that if we're revising the whole thing, why isn't it logical that if the director is going to have this discretion and is going to exercise it, why shouldn't he exercise it for 10 tables, 15, or whatever amount of tables the licensee has available. Ms. Cass-Healy advised that decision is for the Commission to determine. Chair McLaughlin noted that at the time the rule was passed, it sounded reasonable.

Commissioner Forrest made a motion seconded by **Commissioner Ludwig** to strike the reference to five tables. Commissioner Ludwig said he recalled being in favor of giving the director this discretion because the Commission wasn't always meeting at the right timetable for all the licensees. Commissioner Ludwig believed the Commission gave the director a lot of other discretion, and he felt the five tables was a compromise from what he had preferred doing and what others had preferred not doing. **Mr. Fleisher** affirmed his recollection that the five tables was a compromise between either deciding not to give the director the discretion or giving him full discretion. **Chair McLaughlin** opened the item for discussion. There was none. *Vote taken; motion carried with five aye votes.*

Commissioner Forrest noted the net result of the motion is that if there are any violations during the six months, essentially the director is vested with the discretion of deciding if it's serious enough to have a delay -- or whether they are rather modest even though they take some administrative action, and that they should not interfere with a move-up. **Ms. Cass-Healy** affirmed.

Director Bishop advised that as the rule was initially implemented, if staff followed it technically, it would have required a minimum of seven months because licensees couldn't request approval until they'd operated for at least six months. When staff reviewed the technicalities, it was affirmed this was just too burdensome, and, in fact, Director Bishop didn't think it was ever the intent to hold someone back from Phase II if there were only minor discrepancies that had been corrected.

Commissioner Forrest asked if the Commission needed to adopt Alternative #4. **Mr. Fleisher** responded the rule was just up for discussion and that staff will include all alternatives next month and the Commission can decide which alternative they wish to adopt. **Ms. Cass-Healy** asked for clarification -- that the reference to five tables would be stricken from all alternatives. This was affirmed by the Commission.

Item 5(m) – Progressive jackpot prizes, procedures, restrictions - house banking. In §§ 2(c) language was amended to this rule to allow licensees to reduce non-advertised reserves or secondary jackpots and claim the money as gross receipts. Language was also added to clarify which portion of the progressive jackpot monies are considered house money and which are considered player money. **Ms. Cass-Healy** explained the philosophy is that players have a vested interest only in advertised prizes. Under §§ 3(a), language was added to clarify how a licensee should disburse advertised progressive jackpot prizes. Then under §§ 3(c), an amendment was made to allow licensees to use a portion of the progressive jackpot monies to purchase merchandise prizes and to outline the requirements. In April, under Alternative #1, language was added to clarify that licensees must pay progressive jackpot winners immediately. Under Alternative #2 being proposed this month, operators are allowed a period of time to pay out large jackpots rather than requiring the entire jackpot to be paid out immediately. This language would require jackpots of \$5,000 and less to be paid out immediately; however, for prizes of over that threshold, \$5,000 must be paid immediately and the remaining balance by check within 24 hours. **Chair McLaughlin** reiterated there had been some concern in the task force about why it has to be a check. **Ms. Cass-Healy** explained the agency is concerned about accountability and wants to affirm that that money does get paid out to the player, and that it gets paid out to the correct player.

Item 5(n) – WAC 230-40-815 – Administrative and accounting control structure – House banking. One housekeeping change--information previously contained in WAC 230-40-825 had been moved to this rule under 3(a). This rule was also amended under a new section (5) to clarify that licensees shall inform their employees of the internal controls related to their job and ensure that these internal controls are followed at all times.

Item 5(o) – Staff is recommending this section be repealed. Staff currently conducts comprehensive investigations or inspections every month in various gaming agencies of each house-banked gaming facility. In addition, licensees with annual gross receipts exceeding \$5 million are required to pay for and undergo a formal review by an independent auditor each year. Staff feels that due to these circumstances, the requirement for an internal control review is redundant.

Item 5(p) – Closed circuit television system requirements for house banking. Initially, all the surveillance requirements were in one rule. The surveillance requirements have been split out for Class F and house-banked card rooms for clarity in the rules package. This rule applies to the house-banked card rooms and has been rewritten for clarification and to gain consistency among all surveillance systems being operated in a card room. It concentrates on capabilities as opposed to specific numbers of cameras, angles, and so forth. It includes required camera coverage, which is more comprehensive than for the Class F or Poker facilities and also includes requirements for monitors, recording equipment, activities to be taped, surveillance procedures and documentation.

Item 5(q) – Requirements for Class F card rooms. Moved from the other rule and are somewhat less comprehensive than the requirements for the house-banked card rooms. **Commissioner Forrest** asked if as we move to electronic cards, if that would generate the need for any change in surveillance procedures or additional records. **Ms. Cass-Healy** said she believed the rules would apply equally as well to those types of games. She believed the impact from those types of games would be on the testing and auditing of the actual equipment in those cases. **Director Bishop** thought there would be an added level – the fact that we have a computer record of the cards -- now staff relies solely on surveillance. The surveillance is still needed because of all the payment of the chips. **Director Bishop** affirmed that we could require the ability to store a certain amount of hands in the technical requirements.

Item 5(r) – Cashier's cage requirements – house-banking. This rule change allows house-banked card rooms which offer Poker games to sell chips through an imprest window at the main cage or other location approved by Commission staff and simply provides for better accountability, which makes it easier on the licensee.

Item 5(s) – Drop boxes. – Amended to allow count team members to remove the drop box from gaming tables under the supervision of security if the card room entrances and exits are locked. It also allows licensees to store empty drop boxes on the gaming tables if surveillance cameras tape the boxes and tables.

Item 5(t) – WAC 230-40-865 Amended so that licensee security officers have access to the fill credit machine for the sole purpose of clearing paper jams within the machine.

Item 5(u) – WAC 230-40-870 The same amendment was made as in 5(u) for removing chips and coins from tables requests and credits.

Item 5(v) – WAC 230-40-875 This rule change clarifies how a licensee will handle voided closing documents. It's just a language clarification.

Item 5(w) – WAC 230-40-885 – Count procedures. §§ 8 outlines the count requirements for nonhouse-banked card rooms and this has been moved to a new separate rule, making locating count requirements for Class F card rooms easy to find. It's been removed from §§ 5(i) because it's not part of the agency's current record keeping requirements. This was simply changed for consistency.

Item 5(x) – Key control. Further defines key lock mechanisms that can be used in the operation of house-banked card rooms and clarifies which keys each department must maintain. It also amends the language to reflect the required separation between security and surveillance departments in a house-banked card room.

Item 5(y) – WAC 230-40-897 – Card game promotions. Staff is recommending repealing this rule. It has been rewritten in Item 5(z).

Item 5(z) – WAC 230-40-055 – Promotions for card games – Moved to the new section because it applies to all card rooms, not just house-banked card rooms. This new rule defines the parameters and requirements under which licensees can offer promotions in conjunction with card games. Therefore, staff feels that there is no need for approval for each promotion conducted in the future. Language was added so licensees may now offer cash or merchandise prizes with no limit on the value. It is currently limited to \$50.

Item 5(A) – WAC 230-40-505 – Requirements for developing and posting house rules for unlicensed charitable and nonprofit card games were separated from the requirements for card rooms. This applies to rules of play for social card games. The change since the last meeting was simply to include some language specific to antes.

Chair McLaughlin noticed that although the Commission's job is to protect the public, a lot of these rules also protect the owner of the establishments. **Ms. Cass-Healy** affirmed that's a fringe benefit of things like internal controls. She affirmed that staff's first goal is to protect the public, then the player, and then the owner.

Chair McLaughlin called for questions. Chair McLaughlin opened the discussion for public testimony.

Bob Tull, lawyer from Bellingham, representing the Recreational Gaming Association (RGA), which represents the card room industry in this state. Mr. Tull noted the RGA continues to appreciate the efforts made by staff to implement the collaborative rulemaking process contemplated by the Administrative Procedures Act. Yesterday, he asked Director Bishop if he would authorize the staff to meet with the RGA representatives in the next week or two to try to further narrow the different views on some of the proposed changes. Many of them are appropriate evolutions of the rule package and the RGA supports them. However, the RGA hopes to have before the Commission at their June meeting, a very clear indication as to which rules have strong endorsement and which have alternative suggestions. Mr. Tull emphasized that the evolution from Phase I to Phase II -- is in today's market of the utmost importance to licensees. He noted the RGA appreciates the Commission's open mind. He affirmed the Commissioners are well advised, from the licensee's standpoint, to continue the thrust of the statute, which is to give the director substantial authority and enormous responsibility to regulate gambling on a day-to-day basis and the Phase II evolution. On behalf of the RGA, Mr. Tull emphasized that it is appropriate to keep the opportunity open in case there is a dispute with staff between the licensee or some other person -- to still have the matter reviewed by the Commission. **Director Bishop** advised that staff always welcomes the opportunity to meet with the card room operators. He asked that if the RGA came up with alternatives, that staff be provided with the alternatives at least a week before the next meeting. **Mr. Tull** affirmed.

Chris Kealy addressed WAC 230-12-072 and how the Problem Gambling will most likely get cut out of the equation. He supported the transitional element that some of that money should go to Problem Gambling. He believed there is a mathematical equation that could be considered when money is transitioned from one type of game to another. Mr. Kealy believed the rule has room for something like a 35 percent fee that could go to Problem Gambling.

Gary Hanson, Executive Director, Washington State Council on Problem Gambling, said he didn't want to get into a competition with the players. In the last year, the Council received a fee of around a thousand dollars from the player-supported jackpots -- most of that was from card rooms that had closed. He emphasized that he hasn't wanted to get into a competition with the players over this, particularly since so far, the amount they have received from discontinued games has been very minimal. He planned to call staff to see if there isn't something like a percentage or something similar that would be acceptable to everyone.

Chair McLaughlin called for other testimony. There was none and she closed the public testimony. She announced that these rules would appear before the Commission next month.

6. Petition for Rule Change by Richard Walker:

WAC 230-04-202:

Amy Patjens, Manager, Communications and Legal Department explained this petition is from Rick Walker who is from Wild Bill's, a company that runs recreational gaming activities and also limited fund-raising events. These are literally the companies who have the Blackjack tables, they come in and they set them up for different groups and typically they use "fake money." During the 2000 legislative session, there was a law that was passed to allow limited fund-raising events. Wild Bill's is an organization licensed by the Commission, based out of Oregon and they are asking that the licensee fee be decreased from \$339 which is the rate in Washington to the \$50 which is the rate in Oregon.

Chair McLaughlin asked why the rate was set at \$339. **Ms. Patjens** responded that when we started, the agency did not have a good estimate on what our costs were going to be. Staff must make sure that the organization is truly a bona fide charitable organization or a nonprofit organization. Wild Bills thinks that the reason there has been so few of these events is because of our license fee. Ms. Patjens noted that the company has its own fee, which is between \$2,000 and \$2,500. She reported that one of the comments that staff has heard from different organizations is that the 15-voting membership requirement may be one of the reasons why we're not seeing a number of these events because many of these organizations simply don't have 15 voting members. **Derry Fries**, Assistant Director, said the proposed \$50 fee would not pay for the processing of the license and the services that the agency provides and the inspection. Currently there is a \$339 fee for a Class A event, which is a 24-hour event and the licensees can have two events a year. Another fee, for \$571 allows one event up to 72 hours, once a year. Mr. Fries reported that staff felt the existing fees are sufficient to cover administrative processing and regulation. **Commissioner Forrest** was shocked to see that by their own statement, the people who put the event on, make more money than the charity does in a good number of cases. **Commissioner Ludwig** suggested that maybe the fee could be charged to the professional operator rather than the charity. **Mr. Fries** responded that they would not care who was charged. **Chair McLaughlin** asked if anyone in the audience wished to speak to the issue.

Geri Windecker, Wild Bill's Casino Parties, Seattle, believed the intent of the Legislature in establishing the limited FRE was to make it easier for nonprofits to raise more money for the charities they support. Wild Bills feels the fee of \$339 is too steep. Many times small nonprofit organizations participate in these events and the fee could represent as much as 10 or 20 percent of their projected profits. Ms. Windecker would like to see limited FREs reduced to a fee of \$50 to \$100. She explained they play with scrip, which has no value, and they play for prizes and receive no money in return. Wild Bills is currently paying half of their client's fee. Putting on a casino party is very labor intensive and costs between \$2,000 to \$2,500. The organization's fees include the equipment, personnel and everything to put the party on. All the client has to do is provide the people, place and prizes. Ms. Windecker suggested the Commission consider these events as similar to the RGA-type activities conducted in the past, at a fee of \$50. They would even entertain a \$100 fee. **Chair McLaughlin** noted that staff indicated it costs at least \$339 to administer this program. Ms. Windecker countered that's because Commission staff conducts background checks which may be redundant and not necessary because of the 501(c) status that they already enjoy. **Commissioner Ludwig** said he was pleased to hear that they share that cost with the charities, and asked how their rate is established. Ms. Windecker said it is based on equipment costs, having office staff, delivery expenses, and the employee costs for the people actually conducting the event. Their fees are based on the

size of the group -- they have packages that are preset, so if it is a small group, it's a smaller package and may only cost \$1,100. If it's a larger group, more equipment and personnel are needed, and the cost goes up. **Chair McLaughlin** asked if anyone else wanted to speak to the issue and she asked if they wanted to file for further discussion.

Commissioner Ludwig noted that after hearing the presentation from Wild Bills, he would make a motion to file this for further consideration. **Chair McLaughlin** detained the possibility of a second, saying Commissioner Forrest had tried to say something and had been interrupted. **Commissioner Forrest** indicated that he was a little reluctant at this time - his thought would be to reject the petition at this time and reexamine it later on. However, if Commissioner Ludwig believed we ought to file it, he would support going through the process. **Chair McLaughlin** asked how long these events have been allowed. **Ms. Patjens** believed the rule became effective in about August or September and the first and only event was held just a few weeks ago. Staff received another very similar petition from a distributing company called WestCoast Casino Parties which does the same type of set-up that Wild Bills does, which will appear on the agenda next month.

Chair McLaughlin recalled the motion on the floor without a second. She asked the Commissioners if they wanted to wait until they hear the WestCoast petition. **Commissioner Ludwig** indicated there might not be a second to the motion. **Commissioner Forrest** suggested they do nothing and wait until next month. Chair McLaughlin noted that since the motion had no second, the Commission would wait and hear the petition next month. **Ms. Patjens** cautioned that her interpretation of the Administrative Procedures Act is that the Commission must do one of three things within 60 days; file it for rulemaking, propose an alternative, or deny the petition. Ms. Patjens reported that the petition was received the first part of April, which was too late to get it on the April agenda. She advised the Commission to take some type of definitive action at this meeting -- they could not wait until next meeting because it would be beyond 60 days. **Mr. Ackerman** affirmed the Commission must exercise one of the three options 1) initiate rulemaking, which would be to file the rule for further discussion; 2) deny the petition if the Commission chooses that route; or 3) propose an alternative version of the rule, but one of those three things must be done today. **Commissioner Orr** seconded **Commissioner Ludwig's motion**; he supported filing the rule and suggested that when it comes up for final action, he would vote against it. Commissioner Orr didn't think it would be smart to drop fees at the expense of the agency and the protection of the citizens and the industry. **Commissioner Ludwig** said that on the other hand, as explained by the representative of Wild Bills, there's no money involved from the player's standpoint other than what they pay at the door to get into the fund-raising event so there is no potential for the same kind of cheating that one might expect from a regulatory standpoint. He also questioned how far the agency needed to go on the background check for a bona fide charitable organization like a fraternal or social club that everyone is aware of and has a 501(c) filing. He questioned if the fee is appropriate at the current amount - as it would be for other people that are in the fund-raising business with gambling and money participation events. Is the fee appropriate for what the agency should be doing?

Director Bishop believed the issue is not whether the fee is appropriate because the fee is based upon the amount of work that the Commission does. The question has to be is the amount of work that we do appropriate. The licensees pay for what the agency does. By law, they must be charged for the work that is done, and the agency tries to keep the fees appropriate as close as possible to the type of work that staff does. Director Bishop noted there are two scenarios regarding background checks. Staff has and will continue to complete two primary obligations: to keep cheaters in check and also to keep people with criminal backgrounds from being involved in anything that the agency regulates. If the Commission is going to regulate this activity, and not do criminal background checks, Director Bishop felt that we would need to examine that -- while the federal government during their review evaluates the charitable organizations, they do not look at the individuals. **Chair McLaughlin** called for other discussion.

Commissioner Parker indicated that the possibility for some inappropriate individuals being involved is always possible, even if it's a very worthy charity. He questioned if a system is set up where there's some incentive for people to use these events for something else, how would we know if we are not doing investigations. **Director Bishop** responded that it would be appropriate for staff to evaluate the type of work that must be done. Initially staff looked at this when it was put in the law as a modified way of doing fund-raising events. If the Commission wants to classify it as something different, there might be an opportunity to do that, however, staff would like to look at that more closely. With no further comments, **Chair McLaughlin** reiterated that there was a motion and a second on the floor to file the petition for a rule change. Vote taken; motion passed unanimously.

7. Other Business/General Discussion/ Comments from the Public:

Chair McLaughlin asked if there were any additional public comments.

Gary Hanson, Washington State Council on Problem Gambling reminded the Commission that the Council is hosting the Fifteenth National Conference on Problem Gambling in SeaTac June 21-23. This event brings together gambling industry people from all over the country, including treatment individuals and research people who work on problem gambling. Between 400 and 500 people are expected to participate and the Commissioners were invited to attend.

Chair McLaughlin and **Commissioner Orr** indicated they were unavailable and asked if there was someone who could represent the Commission. **Commissioner Ludwig** and **Commissioner Forrest** expressed an interest.

8. Presentation – Colville Tribe

Withdrawn from agenda.

9. Adjournment

With no further business, **Chair McLaughlin** adjourned the meeting at 11:20 a.m. and announced next meeting would take place in LaConner on June 14th & 15th.

Minutes submitted to the Commission for approval by:

Shirley Corbett
Executive Assistant